

83-112-I

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October 6, 1983

Mr. Robert J. Hankins, Executive Director
New Hampshire Commission on the Arts
40 North Main Street
Concord, New Hampshire 03301

Dear Mr. Hankins:

You have requested this office's advice regarding several questions related to the proposed "Radio Town Meeting of the Arts." We understand from your correspondence in connection with this matter that the "Radio Town Meeting of the Arts" will consist of a radio broadcast of each presidential candidate presenting his view of the role of the federal government in the arts. The "Radio Town Meeting" will provide each candidate equal time in which to present his views and will be conducted in a non-partisan manner. The two specific questions you have raised are: (1) Whether the State Commission on the Arts may sponsor this kind of event in conjunction with the New Hampshire Alliance for Arts Education? and (2) Whether all candidates must be provided an opportunity to participate in the "Radio Town Meeting of the Arts?"

Regarding your first inquiry, there is no general state or federal law which prohibits the State from sponsoring a program of this kind. Therefore, this inquiry must focus on whether the Arts Commission itself is authorized by state law to sponsor this kind of event. RSA 19-A:5 provides that among the duties of the Commission shall be the duty to "stimulate and encourage throughout the state the study and presentation of the performing and fine arts and public interest and participation therein." The sponsorship of a discussion of this kind on the arts would appear to be a reasonable method of encouraging public interest in the fine arts. Although the



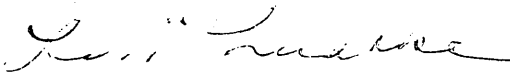
statutes do not address the related issue of whether the program may be sponsored in conjunction with the New Hampshire Alliance on the Arts, there does not seem to be any law or general state policy which would prohibit co-sponsorship, provided that a non-partisan format is maintained. It is our understanding from discussions with your office that the New Hampshire Alliance of the Arts is a non-partisan and non-profit organization, and that co-sponsorship would not result in the Commission on the Arts engaging in politically partisan activities.

The second question posed by your request is somewhat more complex. Although state and federal election laws do not mandate that all candidates participate in activities such as the type described in this instance, federal communication laws relating to the radio broadcast of such a presentation may impose an obligation on the broadcasting station to provide equal time to all "legally qualified" candidates.¹ This rule is codified in 47 U.S.C. § 315 which provides in part:

"If any licensee shall permit any person who is a legally qualified candidate for any public office to use a broadcasting station, he shall afford equal opportunities to all other such candidates for that office in the use of such broadcasting station."

Although this office may not provide legal advice to private entities, you should be aware of certain restrictions imposed by federal law upon the broadcast of the Radio Town Meeting. Federal communications law appears to require that all candidates be provided "equal access" to broadcast opportunities. Because of the requirements imposed by federal communications law, we would recommend that the Commission make an attempt to invite all legally qualified candidates to participate.

Very truly yours,


Leslie J. Ludtke
Assistant Attorney General
Division of Legal Counsel

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¹The question of whether a candidate is legally qualified should be decided under state law.